

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3889

IN THE MATTER OF:

Served February 20, 1992

Application of BOATWRIGHTS)
INCORPORATED for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-91-43

By application filed December 6, 1991, Boatwrights Incorporated (Boatwrights or applicant), a Maryland nonstock corporation, seeks a Certificate of Authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Notice of this application was served on December 12, 1991, in Order No. 3862, and Boatwrights was ordered to publish further notice in a newspaper and file an affidavit of publication. Boatwrights complied. This application is unopposed.

SUMMARY OF EVIDENCE

Boatwrights proposes to initiate operations using one owned 1988 van. Applicant's proposed tariff contains one-way and round-trip per-capita rates for ambulatory and nonambulatory passengers. Groups of five or more receive a discount. Boatwrights' application includes information regarding, among other things, its corporate status, facilities, vehicle maintenance arrangements, proposed tariff, finances, and regulatory compliance record.

Applicant's president certifies on Boatwrights' behalf that it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to safe transportation of passengers for hire.

Boatwrights filed a balance sheet as of December 6, 1991, showing current assets of \$5,000 and net fixed assets of \$8,160, total liabilities of \$5,145, and total equity of \$8,015. Boatwrights' projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$65,000, total operating income of \$75,000, and net income of \$23,632.

The application indicates that applicant's president and vice president are its sole shareholders. It is certified that neither Boatwrights nor any person controlling, controlled by, or under common control with Boatwrights has any relationship with a carrier other than Boatwrights.

DISCUSSION AND CONCLUSIONS

This case is governed by the Compact, Title II, Article XI, Section 7(a), which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant, . . . if it finds that --

(i) the applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

(ii) that the transportation is consistent with the public interest.

Although this application was filed in the name of "Boatwright's, Inc.," the articles of incorporation show that the correct corporate name of applicant is "Boatwrights Incorporated." We have made the necessary correction in this order.

Another issue arises concerning the articles of incorporation, the third of which states that:

The purposes for which the corporation is formed are as follows: To provide a safe, dependable, non-emergency transportation service for elderly and disabled persons for profit. (Emphasis supplied.)

The underlined language establishes a limitation concerning the persons this corporation is lawfully entitled to transport, and it would be inappropriate to issue operating authority exceeding the corporation's limitation. Accordingly, the contingent grant of authority contained herein will be restricted to transportation of elderly and disabled persons. This is without prejudice to applicant's right to apply to the Commission to have this restriction removed, if it chooses to amend its articles of incorporation.

For purposes of this application, "elderly and disabled person" is defined to mean any person who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable to use transportation services as effectively as a person who is not so affected.

The necessity to define "elderly and disabled person" is occasioned by specific limiting language in applicant's articles of incorporation, and our definition here is limited to this case and the specific facts and circumstances here involved.

Based on the evidence in this record, the Commission finds Boatwrights to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. It is further found that the proposed transportation, restricted as discussed above, is consistent with the public interest.

THEREFORE, IT IS ORDERED:

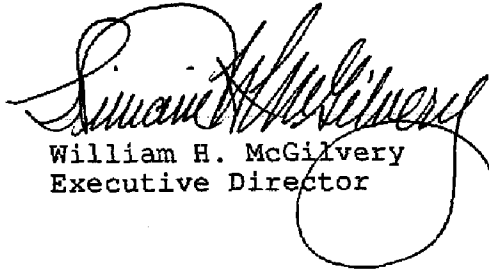
1. That Boatwrights Incorporated, 6817 Milltown Court, District Heights, MD 20747, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order,

authority to transport passengers, together with baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to (a) transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver, and (b) transportation of elderly and disabled persons.

2. That Boatwrights Incorporated is hereby directed within 30 days of the date of this order or such additional time as the Commission may direct or allow, to file (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) four copies of its tariff(s) in accordance with Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; and (e) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 199 is hereby assigned.

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the materials required by the Commission, Certificate of Authority No. 199 shall be issued to Boatwrights Incorporated.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS DAVENPORT, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director

